



JOURNAL

JOURNAL OF THE CENTER FOR FAMILIES, CHILDREN & THE COURTS

VOLUME 5 ♦ 2004

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FAMILIES, CHILDREN & THE COURTS

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The *Journal of the Center for Families, Children & the Courts* is a periodical dedicated to publishing a full spectrum of viewpoints on issues regarding children, families, and the interplay between these parties and the courts. Focusing on issues of national importance, the journal encourages a dialogue for improving judicial policy in California.



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The *Journal of the Center for Families, Children & the Courts* welcomes submissions addressing contemporary issues in family and juvenile law, the administration of family and juvenile courts, and the provision of court-connected services to children and families. The journal seeks to foster dialogue among various practical and academic disciplines, and so invites contributions from the fields of law, court administration, medicine and clinical psychology, the behavioral and social sciences, and other disciplines concerned with the welfare of children and families.

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With its recent decision barring the death penalty for juveniles, the U.S. Supreme Court set precedent but did not end the debate. To further expand and refine the national conversation on the issue, this Issues Forum includes a brief discussion of the issues presented in the state and Supreme Court cases and the entire oral argument held in the Supreme Court on the *Roper v. Simmons* case.

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Editor's Note

The Judicial Council of California and the Administrative Office of the Courts are pleased to present Volume 5 of the *Journal of the Center for Families, Children & the Courts*.

In this issue we focus on trends and developments in the juvenile court. From its inception in 1926, the Judicial Council signaled its interest in reviewing court procedures involving juveniles in California and, by 1930, had visited juvenile courts in other states and made recommendations for changes to the juvenile justice system to reduce the number of delinquent children in the state. The Judicial Council, in partnership with California's local trial courts and juvenile court judges, continues to demonstrate its dedication and commitment to the best interest of this state's children and families through innovative programming and cutting-edge judicial policy.

The articles in the focus section offer a range of issues meant to encourage a dialogue on how the courts can best serve the children and families who come into the juvenile court system. Leading off, Diane Nunn and Christine Cleary offer a glimpse into California's early treatment

of juveniles and the juvenile court of the past, tracing the key legislation and case law that helped shape the court we know today. Then Barbara Kaban and Judith C. Quinlan discuss children's insufficient understanding of legal

Trends & Developments in the Juvenile Court:
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serve the best interest of California's children and families.

terminology, particularly as it pertains to plea proceedings. They give many suggestions and sample colloquies to enhance children's understanding of legal proceedings. Judge Leonard P. Edwards looks at the shortcomings of the traditional adversarial process in resolving child protection and related family issues and introduces mediation as a viable alternative. He discusses best practices for a successful mediation program. Next, Don Will, Alexa Hirst, and Alison Neustrom introduce current efforts to define data standards for juvenile dependency court and review available sources of information on children in the system. They identify key research and performance issues that a juvenile dependency information system should address. Ana España and Tracy Fried take a close look at the educational challenges facing foster children and discuss systemic impediments to their educational achievement, pointing out the expanding role of the juvenile court in addressing educational issues. Judge James R. Milliken (Ret.) and Gina Rippel follow with a proposal that effective case management and immediate treatment for substance-abusing parents can improve outcomes for children who enter the

dependency system because of their parents' drug and alcohol problems. The San Diego County Dependency Court Recovery Project is presented as a successful, cost-effective model program. Then Davin Youngclarke, Kathleen Dyer Ramos, and Lorraine Granger-Merkle present a systematic review of studies assessing the impact of Court Appointed Special Advocates (CASAs) and suggest that CASA programs may positively influence particular process variables. In the last article focused on trends and developments in the juvenile court, Dr. David E. Arredondo argues that decision-makers must understand the principles of child development in order to fashion developmentally appropriate sanctions for children and youth who come into the juvenile justice system. He offers sanctioning strategies for special juvenile offender populations, including girls, the mentally ill, and transgenerationally involved youth.

We have reserved the Issues Forum in this volume for a discussion on juveniles and the death penalty. Though the U.S. Supreme Court recently issued its decision barring the death penalty for offenders who were under the age of 18 when their crimes were committed, debate on the issue has not abated. After providing a brief background on both the state and Supreme Court cases, we have reprinted the entire oral argument before the U.S. Supreme Court in the case of *Roper v. Simmons*, in the hope of further delineating the issues and contributing to an ongoing healthy debate on this very important matter.

In our Perspectives section we include the remarks by Judge Leonard P. Edwards upon receiving the 2004 William H. Rehnquist Award for Judicial Excellence in the Great Hall of the U.S. Supreme Court. He shares his thoughts on the juvenile court and the children and families it serves. And we are pleased to include in this volume a selection of poems and artwork that were submitted to our 2003 Children's Art and Poetry Contest by children and youth with experiences in the California court system. The contest was part of the celebration of the 100th anniversary of the creation of California's juvenile courts.

Finally, with this volume we bid a fond farewell to Corby Sturges, journal editor since Volume 2, who continued to work with us on this volume after his move to another country. We are so grateful to have had the opportunity to work with Corby—a brilliant editor, wonderful person, great new dad, and master of the *Bluebook*. We wish him all the best in this new chapter of his life.

We hope that the journal is meeting its goals of publishing a full spectrum of viewpoints and encouraging productive scholarly discussions on issues concerning children and families in the court system. As always, we welcome your comments and suggestions on ways we can improve this publication to better meet your needs.

—Chris Cleary

Contributors

DAVID E. ARREDONDO, M.D., is the medical director of EMQ Children and Family Services and founding director of the Office of Child Development, Neuropsychiatry, and Mental Health, an affiliate of the National Council of Juvenile and Family Court Judges. He conducts research reviews on a broad range of topics and provides consultations and training to professionals and programs across the country. Arredondo's primary focus is the transferring of knowledge of early childhood brain development, the effects of trauma, and current thinking about children's mental health to practitioners in various disciplines. He is a graduate of Harvard College and Harvard Medical School.

CHRISTINE CLEARY is the journal's editor in chief. Before coming to the AOC Center for Families, Children & the Courts, she spent many years as an attorney in private practice doing civil litigation and juvenile dependency appellate work. One of her dependency cases, *In re Precious J.*, 50 Cal. Rptr. 2d 385 (Cal. Ct. App. 1996), resulted in the reversal of a judgment terminating an incarcerated mother's parental rights because the social services agency failed to provide reasonable reunification services. More recently Cleary was the managing attorney at the Child Care Law Center in San Francisco.

HON. LEONARD P. EDWARDS was appointed to the Superior Court of California, County of Santa Clara, in 1981 and has spent the majority of his judicial career on the juvenile court bench. He currently serves as supervising judge of the juvenile dependency court. Judge Edwards is the 2003–2004 Judicial Council of California Jurist of the Year and the recipient of the 2004 William H. Rehnquist Award for Judicial Excellence sponsored by the National Center for State Courts. He is a past president of the National Council of Juvenile and Family Court Judges and a past member of the Judicial Council of California. He and his wife, Professor Inger Sagatun-Edwards, are co-authors of *Child Abuse and the Legal System* (Wadsworth 1995).

ANA ESPAÑA is supervising attorney of the San Diego County Public Defender's dependency section. She has represented children in dependency proceedings for more than 20 years. España is active on both state and local levels on behalf of foster youth. She is a member of the Judicial Council's Family and Juvenile Law Advisory Committee, the California State Bar Committee on the Delivery of Legal Services, the board of directors of the California CASA Association, and the San Diego Juvenile Court Policy Group, Rules Committee, and Education Task Force.

TRACY FRIED, M.S.W., focuses on instituting systemic change to improve educational outcomes for underserved youth. In 2000, she developed the San Diego County Office of Education's Foster Youth Services program. Fried was a recipient of the 2004 Golden Bell award sponsored by the California School Board Association and has been recognized in a White House Task Force Report on Disadvantaged Youth and numerous other national and state publications for her work in the Foster Youth Services program. She received her master's degree from the University of Southern California in 1994.

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ALEXA HIRST is a master's degree candidate in public policy at Harvard University's John F. Kennedy School of Government and is a consultant with the Center for Applied Research, a management consulting firm in Philadelphia. Before returning to graduate school, she was a senior research analyst at the AOC Center for Families, Children & the Courts, where she specialized in studies of topics such as domestic violence and case complexity in California's juvenile and family courts. Until 2001, she worked on evaluations of problem-solving courts at the Urban Institute in Washington, D.C. Hirst received her bachelor's degree in psychology from Harvard College in 1997.

BARBARA KABAN, J.D., M.B.A., M.ED., is deputy director of the Children's Law Center in Lynn, Massachusetts. A recipient of a 1998 Soros Justice Fellowship, she graduated *magna cum laude* from Boston College Law School and received an M.B.A. from Boston University and an M.Ed. in educational psychology from Harvard University. She provides direct representation to children and youth in delinquency and educational matters. Kaban is also a member of the criminal appellate panel and has argued before the Appeals and Supreme Judicial Courts. She regularly lectures on effective advocacy practices in juvenile delinquency cases. Her publications include *When Police Question Children: Are Protections Adequate?* (with Ann E. Tobey, 1 J. CENTER CHILDREN & CTS. 151 [1999]) and *An Overview of Disposition Process in Delinquency Cases* (with Francine Sherman, in JUVENILE LAW BASICS 205 [Debra S. Krup ed., Mass. Continuing Legal Educ., 1999]).

Contributors, continued

HON. JAMES R. MILLIKEN (RET.) was the presiding judge of the Superior Court of San Diego County's juvenile division from 1996 until his retirement in 2003. Beginning in 2002 he also served as the supervising judge of its family court. Judge Milliken received a J.D. from California Western School of Law. He was a civil trial attorney with the San Diego firm of McInnis, Fitzgerald, Rees, Sharkey & McIntyre for 18 years before his appointment to the superior court in 1988. He is currently a partner in DiFiglia & Milliken, a private dispute resolution practice, where he also consults on management of juvenile cases, particularly dependency cases, for courts in other jurisdictions.

ALISON NEUSTROM, PH.D., is the director of Quality Assurance and Strategic Planning with the Louisiana Department of Social Services. Neustrom previously served as a postdoctoral fellow in the University of California at Berkeley's School of Social Welfare and worked as a research analyst at the AOC Center for Families, Children & the Courts. She received a master's degree in social work and a doctorate in sociology from Louisiana State University. Her research interests include social stratification and evaluation of policies affecting poverty, families, and children.

DIANE NUNN is the director of the AOC Center for Families, Children & the Courts. Prior to joining the AOC in 1986, she was an attorney in private practice with special interests in family and criminal law and domestic violence prevention and intervention. Nunn also worked in the Los Angeles County court system as a court program administrator and a juvenile court referee. Before becoming an attorney, she taught children in elementary and middle schools, special education programs, and county probation camp facilities. Nunn has been recognized by the National Association of Counsel for Children, the California CASA Association, and the Judicial Council of California for her outstanding advocacy and leadership on behalf of children and families.

JUDITH C. QUINLAN was a research coordinator in the Law and Psychiatry Program at the University of Massachusetts Medical School during the development of her article co-authored with Barbara Kaban. While at the Law and Psychiatry Program, she provided research and technical assistance to users of a mental health screening instrument for youths in the juvenile justice system, and she researched clinical forensic mental health services to juvenile courts and service delivery systems for juveniles in justice settings. She has authored several articles and a book chapter on the mental health needs of youths involved with the juvenile justice system. She currently works as a data analyst. She graduated *summa cum laude* from Clark University in 2000 with a B.A. in psychology.

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GINA RIPPEL, J.D., M.S.W., concurrently earned her degrees at California Western School of Law and San Diego State University in 2002. During her graduate work, Rippel interned at the San Diego County Health and Human Services Agency and the Superior Court of San Diego County's juvenile court, studying the impact of substance abuse on families in the juvenile dependency system and the importance of immediate and consistent treatment programs in achieving beneficial outcomes for children and families. After passing the bar in 2002, she worked for the San Diego County Counsel in the appellate division of the child dependency unit. Rippel is currently a prosecutor in the domestic violence unit of the San Diego Office of the City Attorney.

DON WILL, a supervising research analyst at the AOC Center for Families, Children & the Courts, has participated in numerous research studies related to court-based child custody mediation, assistance to self-represented litigants, and juvenile dependency. He received his A.B. from the University of California at Berkeley and, before coming to the CFCC, was a research analyst at the Tuberculosis Control Branch, California Department of Health Services.

DAVIN YOUNGCLARKE, M.A., is an instructor of family and community medicine in the University of California at San Francisco, Fresno Medical Education Program, where he specializes in statistics and research methodology. He has lectured internationally on the topics of child welfare and evidence-based medicine. Previous faculty appointments include the Departments of Criminology and Psychology at California State University, Fresno. He also serves as the associate director for outcomes and research with CASA of Fresno County.